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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,787	09/04/2001	Dietmar Huglin	HP/2-21867	3542

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CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/830,787

Applicant(s)

HUGLIN ET AL.

Examiner

Lakshmi S Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-64 is/are pending in the application.
- 4a) Of the above claim(s) 42-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-41 and 47-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10-16-01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Receipt of response to election requirement and amendment of 9-30-04 and 10-14-04 is acknowledged.

Election/Restrictions

Applicants' election of the claims of Group I, claims 33-64, drawn to a method of stabilizing body-care and house-hold products utilizing a phenolic antioxidant of formula I is acknowledged.

Claims 42-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9-30-04. Claims 33-41 are considered for further examination.

Claim Rejections - 35 USC § 112

Claims 33-41 and 47-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Instant claims 33 recites "a method of stabilizing body-care and household products which comprises incorporating a body-care or household product", which is vague because it is unclear as to how a method of stabilizing both household and body care products comprises incorporating the claimed compound into either a household or a body care product. It appears that applicants intended to claim body-care and household in an alternative format. A clarification and appropriate correction is requested.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33-41, 47, 61, 62 and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3356612 to Guthrie et al (Guthrie).

Guthrie discloses stable detergent compositions comprising a chlorine or halogen releasing agent nonionic surfactant and a stabilizing antioxidant (col. 1). Guthrie teaches that the stability or the shelf life of dishwashing detergent composition. Among the antioxidants, Guthrie discloses alkylated bisphenols such as 4, 4'-dihydroxy-3, 3'-dimethyl-5, 5' di-t-butyl biphenyl, 2,2'-methylene, bis (4-, methyl-6-t-butyl phenol) etc (col. 12, lines 33-52 and col. 13, Table II). Instant claim 33 requires $R_1=H$, $R_2=C_1-C_{22}$ alkyl, $R_3=H$, $Q=C_mH_{2m}$ and the variables a-d can be 0 or 1. Accordingly, if variables b-d=0 and e=1, the bisphenols compound of Guthrie reads on formula I of the instant claim 33. Therefore, Guthrie anticipates instant claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3356612 to Guthrie et al (Guthrie).

Guthrie teaches dishwashing composition containing the claimed phenolic antioxidants (see above). Guthrie does not exemplify a composition comprising a mixture of antioxidants or in combination with tocopherol or the amounts of antioxidants claimed. However, Guthrie teaches that antioxidants and synergists can be employed and suggests tocopherol and its related compounds as suitable antioxidants (col. 12, lines 1-33). With respect to the light stabilizers claimed, applicants disclose in the specification that amines also act as light stabilizers. Guthrie teaches amino compounds such as diaryl amines also as suitable antioxidants (col. 12, lines 55-65). Therefore, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use a combination of antioxidants such as a mixture of tocopherol (or amine compounds) and phenol compounds in appropriate amounts in the dishwashing composition, because Guthrie suggests that antioxidants improve the shelf life of otherwise unstable dishwashing composition and that antioxidants have a synergistic effect.

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Claims 33-41, 47-61 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2319523 (GB).

GB teaches stabilizer compounds for stabilizing a variety of organic material such as cosmetics, paint compositions and photographic compositions. Among the antioxidants, GB teaches the instant claimed bisphenols (page 22), triazine compounds (pages 2-10, 28), benzotriazole compounds (page 26), tocopherol (page 22) and sterically hindered amines (page 27). GB teaches several alkylene bisphenols that reads on the claimed structure. Further, GB teaches employing the antioxidants in cosmetics such as sun protecting compositions (page 92), and other skin and hair applications (page 44 and page 45), by employing in optimum amounts and in combination with cosmetically acceptable excipients. GB further suggests addition of the antioxidants in combination such as triazine and sterically hindered amines (page 33). While GB fails to exemplify cosmetic or other compositions comprising the claimed phenolic antioxidants, choosing a combination of antioxidants such as phenolic antioxidants and other antioxidants from the various classes of art recognized antioxidant molecules so as to achieve the desired stabilizing effect (of cosmetic or other compositions) and further prevent the oxidative damage or thermal degradation of the cosmetic or other organic compositions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 7.30 AM -4.00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
Art Unit 1615
February 1, 2005